

# Administration (Validating) Act 1900 No 38

[1900-38]



New South Wales

## Status Information

### Currency of version

Repealed version for 1 March 2008 to 7 July 2011 (accessed 27 February 2024 at 4:48)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by Sch 4 to the [Statute Law \(Miscellaneous Provisions\) Act 2011 No 27](#) with effect from 8.7.2011.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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## Contents

<b>Long title</b> .....	3
1 Incorporation and name of Act .....	3
2 Validation of orders giving power or leave to sell .....	3
3 Validation of sales etc by administrator .....	3
4 Power of court to authorise sale, mortgage, or lease .....	4
5 Court may authorise business of intestate to be carried on .....	4
6 Savings .....	4

# Administration (Validating) Act 1900 No 38



New South Wales

An Act to validate certain orders of the Supreme Court giving power or leave to sell, mortgage, or lease real estate of deceased persons and all acts done in pursuance thereof; to validate certain sales, mortgages, and leases of such estate; to provide for the granting of power to sell, mortgage, or lease such estate; and to authorise the postponement of the realisation of any estate of any such person used in any business, trade, or occupation, and the continuation of the use of the same for those purposes, and the carrying on of the said business, trade, or occupation.

## 1 Incorporation and name of Act

This Act shall be construed as one with the [Probate and Administration Act 1898](#) and may be cited as the [Administration \(Validating\) Act 1900](#).

## 2 Validation of orders giving power or leave to sell

Where before the commencement of this Act, and under the ecclesiastical or probate jurisdiction of the Supreme Court, that Court, or any Judge thereof:

- (a) has granted administration with power or leave to sell, mortgage, or lease all or any real estate of the deceased person, or
- (b) by order has granted to an administrator power or leave to sell, mortgage, or lease all or any real estate of the deceased person.

Such power or leave shall be deemed to have been legally conferred by such grant or order, and all acts done before or after the commencement of this Act in pursuance of such power or leave shall be deemed to have been and to be lawfully done.

## 3 Validation of sales etc by administrator

Where any person has, after the commencement of the [Real Estate of Intestates Distribution Act of 1862](#), and before the commencement of the [Probate Act of 1890](#), died intestate as to any real estate, and the administrator or, in case of partial intestacy, the executor (whether administration or probate was granted before or after such commencement) has, before the commencement of this Act, sold, mortgaged, or leased such estate or any part thereof, or has entered into a contract for the sale, mortgage, or lease of any such estate or any part thereof, such sale, mortgage, or lease or such

contract for sale, mortgage, or lease shall be deemed to have been and to be as valid as if made in pursuance of a power or leave to sell, mortgage, or lease granted by the Supreme Court under its ecclesiastical or probate jurisdiction.

#### **4 Power of court to authorise sale, mortgage, or lease**

The Court as defined in the *Probate and Administration Act 1898*, may in any grant of administration or by other order, authorise the administrator, or in case of partial intestacy, the executor, in such manner, at such times, and subject to such conditions as to the Court may seem fit, or without prescribing any such manner, times or conditions, to sell, mortgage, or lease all or any of the real estate of the deceased person.

#### **5 Court may authorise business of intestate to be carried on**

Where any person has died intestate before or after the commencement of this Act, as to any real or personal estate used by the deceased at the time of the deceased's death in any business, trade, or occupation, the court, or the Supreme Court in its equitable jurisdiction, may authorise the executor or administrator (whether probate or administration has been granted before or after the commencement of this Act) to postpone the realisation of the estate so used, or any part thereof, for such time as the court thinks fit, and in the meantime to carry on the said business, trade, or occupation, and to use therein such estate or part thereof, subject to such conditions as the court may think fit to impose.

#### **6 Savings**

Nothing in this Act shall apply to the matter in issue in the suit of Kelly and others against J. T. and J. Toohey, Limited, and others, or any action, suit, or proceeding pending at the commencement of this Act.